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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,777	06/27/2003	Mary Beth Adams	J-3865	6453

28165 7590 10/27/2004

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EXAMINER

HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 10/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,777

Applicant(s)

ADAMS ET AL.

Examiner

Robert A Hopkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 13-20, 31-33, 36-38, 46, 47 and 50-52 is/are rejected.
- 7) ☒ Claim(s) 2-12, 21-30, 34, 35, 40-45, 48, 49 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

Claim 7 is objected to because of the following informalities: line 2 recites "pre-determin3ed". Examiner believes the "3" should be deleted. Appropriate correction is requested.

Claim Rejections - 35 USC § 112

Claims 46 and 47 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 46 and 47 recite "includes the step of providing the dimension of the wick not to exceed R", and includes the step of providing the dimension of the wick not to exceed 0.8R".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,13-20,31,32,33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Andersen(1911871).

Andersen teaches a dispenser for a volatile liquid comprising a housing(3), a fan(2) mounted to the housing to generate an air stream, and a guide(15) associated

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with the housing provides at least one boundary in defining an opening in which the opening has a predetermined dimension to selectively receive a wick(14) and to position the wick in alignment with the fan to immerse the wick into an air stream when the fan is activated. Andersen further teaches wherein the guide comprises a wall member surrounding the opening. Andersen further teaches wherein the wall member is positioned entirely around the opening. Andersen further teaches wherein the guide includes a wall member positioned to surround a top portion of the wick. Andersen further teaches wherein the opening of the guide is positioned relative to the fan to position the wick in alignment with a rotational axis of the fan. Andersen further teaches wherein the predetermined dimension of the opening is greater than a dimension of the wick. Andersen further teaches wherein the predetermined direction of the opening is positioned generally transverse to an axis of rotation of the fan.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hartmann(2828953).

Hartmann teaches a dispenser for a volatile liquid comprising a housing(12), a fan(52) mounted to the housing to generate an air stream, and a guide(42) associated with the housing provides at least one boundary in defining an opening in which the opening has a predetermined dimension to selectively receive a wick(40) and to position the wick in alignment with the fan to immerse the wick into an air stream when the fan is activated.

Claims 36-38,50-52 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Andersen(1911871).

Andersen teaches a method for assembling a dispenser for a volatile liquid, comprising the steps of providing a fan(2) mounted to a housing(3), and providing a guide(15) associated with the housing in which the guide defines an opening having a predetermined dimension to selectively receive a wick(14) and align the wick to be immersed in an air stream when the fan is activated. Andersen further teaches wherein the step of providing a guide includes positioning the wick within a cylindrical volume centered along an axis of rotation to the farthest end of a fan blade from the axis of rotation of the fan. Andersen further teaches a step of providing the predetermined dimension of the opening in an orientation generally transverse to an axis of rotation of the fan.

Allowable Subject Matter

Claims 2-12,21-30,34,35,40-45,48,49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 recites "wherein the guide comprises two spaced apart projections extending from a surface of the housing". Andersen discloses a guide member which includes a wall member surrounding the opening. Hartmann discloses a guide member which includes a single projection(42) extending from a surface of the housing. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a guide which comprises two spaced apart projections extending from a surface of a housing because neither Andersen nor Hartmann disclose such a

modification. Claims 3-12 depend on claim 2 and hence would also be allowable upon incorporation of claim 2 into claim 1.

Claim 21 recites "including a fan blade of the fan having a length R measured from an axis of rotation of the fan to the farthest end of the fan blade away from the axis of rotation and wherein the predetermined dimension of the opening does not exceed $1.25R$ ". Andersen does not disclose a specific ratio of fan blade length to the predetermined opening. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a fan blade of the fan having a length R measured from an axis of rotation of the fan to the farthest end of the fan blade away from the axis of rotation and wherein the predetermined dimension of the opening does not exceed $1.25R$ because Andersen does not suggest such a modification. Claims 22-25 depend on claim 22 and hence would also be allowable upon incorporation of claim 21 into claim 1.

Claim 26 recites "wherein the wick has a dimension not to exceed 1.2 of a length R of a fan blade of the fan measured from an axis of rotation to a farthest end of the fan blade away from the axis of rotation". Andersen does not disclose a specific ratio of fan blade length to the wick dimension. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a wick which has a dimension not to exceed 1.2 of a length R of a fan blade of the fan measured from an axis of rotation to a farthest end of the fan blade away from the axis of rotation because Andersen does not suggest such a modification. Claims 27-30 depend on claim 26 and hence would also be allowable upon incorporation of claim 26 into claim 1.

Claim 34 recites "wherein the guide comprises a projection extending from a surface of the housing and positioned spaced apart from another surface of the housing, and the opening comprises a separation between the projection and the other surface of the housing". Andersen discloses a guide member which includes a wall member surrounding the opening. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a guide which comprises a projection extending from a surface of the housing and positioned spaced apart from another surface of the housing, and the opening comprises a separation between the projection and the other surface of the housing because Andersen does not suggest such a modification. Claim 35 depends on claim 34 and hence would also be allowable upon incorporation of claim 34 into claim 1.

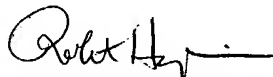
Claim 40 recites "includes providing the predetermined dimension of the opening not to exceed 1.25 of the length R of a fan blade of the fan measured from an axis of rotation of the fan to a farthest end of a fan blade away from the axis of rotation of the fan". Andersen does not disclose a specific ratio of fan blade length to the predetermined opening. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a step of providing the predetermined dimension of the opening not to exceed 1.25 of the length R of a fan blade of the fan measured from an axis of rotation of the fan to a farthest end of a fan blade away from the axis of rotation of the fan because Andersen does not suggest such a modification. Claims 41-44, 48, and 49 depend on claim 40 and hence would also be allowable upon incorporation of claim 40 into claim 36

Claim 45 recites "including the step of providing the dimension of the wick not exceed 1.2 of the length R of a fan blade of the fan measured from an axis of rotation of the fan to a farthest end of the fan blade away from the axis of rotation. Andersen does not disclose a specific ratio of fan blade length to the wick dimension. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a step of providing the dimension of the wick not exceed 1.2 of the length R of a fan blade of the fan measured from an axis of rotation of the fan to a farthest end of the fan blade away from the axis of rotation because Andersen does not suggest such a modification.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert A Hopkins
Primary Examiner
Art Unit 1724

Rah
October 19, 2004